

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Christopher Hrvnak,) CASE NO.: 1:10 – CV – 646
)
Plaintiff,) JUDGE:
)
vs.)
)
NCO Portfolio Management,)
)
and,)
)
NCO Portfolio Management, Inc.,)
)
and,)
)
NCO Group, Inc.,)
)
and,)
)
NCO Financial Systems, Inc.,)
)
and,)
)
Javitch, Block, & Rathbone, L.L.P.,)
)
Defendants.)
)

NOTICE OF REMOVAL

To the honorable judges of the United States District Court for the Northern District of Ohio, Eastern Division:

Removing party Javitch, Block, & Rathbone, LLP with the consent of NCO Capital II, LLC d/b/a NCO Portfolio Management, NCO Portfolio Management, Inc., NCO Group, Inc., NCO Financial Systems, Inc., and NCOP Nevada Holdings, LLC by and through the undersigned attorney, respectfully shows this Court:

1. On June 4, 2009, Defendant Javitch, Block, & Rathbone (“JB&R”) filed a complaint on behalf of its client, Defendant NCO Portfolio Management, against Plaintiff Christopher Hrivnak in the Bedford Municipal Court. The case was assigned Case No. 09CVF03317.
2. On July 9, 2009, Mr. Hrivnak filed a counterclaim class action against Defendant NCO Portfolio Management and against new-party Defendants Javitch, Block, & Rathbone, NCO Portfolio Management, Inc., NCO Financial Systems, Inc., and NCO Group, Inc.
3. On July 13, 2009, service of the above referenced class action was perfected on Defendant Javitch, Block, & Rathbone via certified mail.
4. On July 13, 2009, service of the above referenced class action was perfected on Defendant NCO Financial Systems, Inc. via certified mail.
5. On July 13, 2009, service of the above referenced class action was perfected on Defendant NCO Group, Inc. via certified mail.
6. On July 14, 2009, service of the above referenced class action was perfected on Defendant NCO Portfolio Management, Inc. via certified mail.
7. On August 3, 2009, Mr. Hrivnak filed a motion to transfer the collection case to the Cuyahoga County Court of Common Pleas under Ohio Civil Rule 13(J), as his counterclaims claims exceeded the monetary jurisdiction of the Bedford Municipal Court.
8. On August 10, 2009, the Bedford Municipal Court ordered that the case be transferred to the Cuyahoga County Court of Common Pleas.
9. On August 13, 2009, the Cuyahoga County Court of Common Please received the transcript and original papers regarding Case No. 09CVF03317 from the Bedford Municipal Court, and assigned it Case No. CV-09-701481.
10. On January 11, 2010, Mr. Hrivnak filed a motion for leave to file an Amended Answer and Counterclaim, in which he attempted to add two new parties to the action – NCOP Nevada Holdings, LLC and NCOP Capital II, LLC. This motion was denied as moot on February 12, 2010. These two parties have not yet been served with Mr. Hrivnak’s amended complaint, and are not listed in the caption that pleading – yet they are named and described in the text of the pleading.
11. On January 12, 2010, the Cuyahoga County Court of Common Pleas granted Defendant NCO Portfolio Management’s motion to dismiss its complaint against Plaintiff Hrivnak, further clarifying that Mr. Hrivnak’s counterclaim was the only remaining claim pending.

12. On February 11, 2010, the Cuyahoga County Court of Common Pleas ordered the realignment of the parties to their present form, and ordered Mr. Hrivnak to file a complaint asserting his affirmative claims within 30 days.
13. On March 15, 2010, Mr. Hrivnak filed an amended complaint, which for the first time listed himself as the plaintiff, against the other parties, each named as the defendants. Plaintiff's amended complaint purports to set forth class action and individual causes of action for alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692a et seq., and state law claims arising under the Ohio Consumer Sales Practices Act, Ohio Revised Code 1345.01 et seq., Ohio Deceptive Trade Practices Act, Ohio Revised Code 4165.01 et seq., common law fraud, abuse of process, malicious prosecution, defamation, and civil conspiracy.
14. On March 15, 2010, Plaintiff Hrivnak served a copy of the amended complaint on counsel of record for the Defendants via facsimile.
15. This Court has original federal question jurisdiction of the above-entitled action pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d); and supplemental jurisdiction over all other claims pursuant to 28 U.S.C. § 1337. The action may therefore be removed to this Court under 28 U.S.C. § 1441.
16. Copies of all state court process, pleadings, or orders served on removing parties in the Bedford Municipal Court are attached hereto as Exhibit A.
17. Copies of all state court process, pleadings, or orders served on removing parties in the Cuyahoga County Court of Common Pleas are attached hereto as Exhibit B.
18. This notice of removal is filed with this Court within 30 days after receipt by the Defendants, through service or otherwise, of a copy of an amended pleading from which it may first be ascertained that the case is one which is or has become removable.
19. Defendants NCO Capital II, LLC d/b/a NCO Portfolio Management, NCO Portfolio Management, Inc., NCO Group, Inc., and NCO Financial Systems, as well as non-party NCOP Nevada Holdings, LLC, have consented to the removal of this action to the United States District Court for the Northern District of Ohio, and hereby join in the within notice of removal. A copy of the joint consent is attached hereto as Exhibit C.

WHEREFORE, removing party prays that the above-entitled action be removed from the Cuyahoga County Court of Common Pleas to this Court.

Respectfully Submitted:

/s/ R. Glenn Knirsch
R. GLENN KNIRSCH, SCR#0080770
JAVITCH, BLOCK, & RATHBONE, LLP
1100 Superior Avenue, 19th Floor
Cleveland, Ohio 44114
Ph: (216) 623-0000 x. 3088
Fax: (216) 525-4962
E-mail: gknirsch@jbandr.com

/s/ Michael D. Slodov
MICHAEL D. SLODOV, SCR#0051678
JAVITCH, BLOCK & RATHBONE, LLP
1100 Superior Ave., 19th Floor
Cleveland, Ohio 44114
Ph: (216) 623-0000 x. 3057
Fax: (216) 685-3038
E-mail: mslodov@jbandr.com

*Attorneys for Defendant,
Javitch, Block, & Rathbone, LLP*

PROOF OF SERVICE

The undersigned hereby certifies that the foregoing was served upon Robert Belovich, attorney for the Defendant, at 5638 Ridge Road, Parma, OH, 44129 / rsb@belovichlaw.com and Anand N. Misra, The Misra Law Firm, LLC, 3659 Green Road, Suite 100, Beachwood, Ohio 44122 / misraan@mislalaw.com, and Franklin C. Malemud, Esq., Reminger Co., L.P.A., 101 Prospect Avenue, West, Cleveland, OH 44115-1093 / FMalemud@reminger.com, Allison L. Cannizaro, Brian D. Roth, Sessions, Fishman, Nathan & Israel, LLP, 3850 N. Causeway Blvd., Suite 200, Metairie, LA 70002-7227 / acannizaro@sessions-law.biz / broth@sessions-law.biz via e-mail and via regular U.S. Mail postage pre-paid, this ___ day of March, 2010.

/s/ R. Glenn Knirsch
R. Glenn Knirsch, SCR#0080770